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4. Judicial Sales (§ 50*)—Title of Purchaser—Unrecorded Deed.—An unrecorded deed from a judgment debtor is ineffective against the purchaser of the land at a judicial sale, in a creditor's suit to procure a sale of the lands.

[Ed. Note.—For other cases, see Judicial Sales, De Dig. § 50.* 11 Va.-W. Va. Enc. Dig. 681-682.]

5. Judicial Sales (§ 50*)—Unrecorded Conveyances by Debtor.—Since an unrecorded deed by a judgment debtor is void as to his creditors, an instruction in ejectment that, if the jury believed that the debtor conveyed the land in dispute to defendant, the jury should find for him was properly refused, where it appeared that such conveyance, if made, was unrecorded, and it was therefore invalid as against plaintiff purchasing the land at a judicial sale.

[Ed. Note.—For other cases, see Judicial Sales, Dec. Dig. § 50.* 11 Va.-W. Va. Enc. Dig. 681.]

6. Boundaries (§ 41*)—Natural and Artificial Monuments—Instructions.—Where in ejectment involving a disputed boundary line the deeds in evidence called for natural and artificial monuments, the court properly refused to charge that courses and distances must give way to calls for lines of adjoiners, and charged that courses and distances must give way to calls for marked lines and natural objects.

[Ed. Note.—For other cases, see Boundaries, Dec. Dig. § 41.* 2 Va.-W. Va. Enc. Dig. 582-585.]

7. Estoppel (§ 19*)—Invalid Deed.—An unrecorded deed by a judgment debtor to defendant, which was void as to the grantor's creditors and the purchaser at a judicial sale, was insufficient to create an estoppel.

[Ed. Note.—For other cases, see Estoppel, Cent. Dig. § 25; Dec. Dig. § 19.* 5 Va.-W. Va. Enc. Dig. 210.]

Error to Circuit Court, Buchanan County.

Ejectment by H. G. Charles against Eli Hurley. Verdict for plaintiff, and defendant brings error. Affirmed.

Chase & Dougherty, for the plaintiff in error.

Ayers & Smithdeal, *A. A. Skeen* and *C. C. Burns*, for the defendant in error.

MCDONALD et al. v. ROTHGEB et al.

Nov. 16, 1911.

[72 S. E. 692.]

1. Estoppel (§ 38*)—By Deed—Covenants—Conveyance of Wife's Separate Property—Liability of Husband.—A husband, who unites with his wife in executing a deed of her life estate, covenanting that

*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.

he and wife have good right to sell the property, and that they will warrant generally the title thereto, is not estopped from claiming his share in remainder as heir of his daughter, who dies unmarried and without issue; his liability on the covenant, if any, being personal, and not operating to enlarge the estate granted.

[Ed. Note.—For other cases, see Estoppel, Dec. Dig. § 38.* 5 Va.-W. Va. Enc. Dig. 204.]

2. Improvements (§ 4*)—Compensation—Good Faith of Claimant.—Under Code, § 2763, authorizing the recovery of improvements on land made by a claimant having reason to believe that his title is good, a purchaser may not close his eyes to his record title, and recover for improvements on the theory that there was reason to believe that his title is good; but his belief must be founded in ignorance of facts which cannot be predicated of a purchaser affected with constructive notice.

[Ed. Note.—For other cases, see Improvements, Cent. Dig. §§ 4-26; Dec. Dig. § 4.* 7 Va.-W. Va. Enc. Dig. 327.]

Error to Circuit Court, Page County.

Ejectment by Ethel McDonald and others against U. G. Rothgeb and others. There was a judgment granting insufficient relief, and plaintiffs bring error. Reversed and rendered.

H. W. Bertram, C. A. Hammer, O. B. Roller and Ed. C. Martz, for the plaintiffs in error.

R. F. Parks and Walton & Walton, for the defendants in error.

CARDWELL, J., absent.

CHESAPEAKE & O. RY. CO. *v.* BARGER.

Nov. 16, 1911.

[72 S. E. 693.]

1. Carriers (§ 320*)—Injury to Passengers—Actions—Evidence.—In an action by a female passenger for injuries alleged to have been received while alighting from defendant's train, evidence as to the cause of the injury held to be conflicting, and to raise a question for the jury.

Ed. Note.—For other cases, see Carriers, Cent. Dig. § 1244; Dec. Dig. § 320.* 2 Va.-W. Va. Enc. Dig. 727.]

2. Evidence (§ 571*)—Weight—Uncontroverted Evidence.—The jury may disregard the testimony of an unimpeached medical expert, even though he was the only one who saw the case, and his testimony has not been directly controverted.

[Ed. Note.—For other cases, see Evidence, Cent. Dig. §§ 2395-2398; Dec. Dig. § 571.* 5 Va.-W. Va. Enc. Dig. 351, 354.]

*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.